IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20007 of 2004

Between:

A.Vignesh, S/o.Late A.Balaraj-Ex-Employee,
CPDCL, R/o. 6-1-92/1,Shaikpet (V),
Hyderabad.

..... PETITIONER

AND

1 The Superintending Engineer, Operation Circle, Andhra Pradesh Central Power Distribution Co.Ltd, Mint Compound, Hyderabad.
2 The Divisional Engineer Operation-I, Zone-I Andhra Pradesh Central Power Distribution Co., Ltd., Saifabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus, directing the respondents to consider thereby grant the pension and death benefits of Late Father of the petitioner namely Balaraj; to the petitioner herein.

Counsel for the Petitioner:MR.BRAHMADANDI RAMESH

Counsel for the Respondents: MR.S.RAVINDRANATH

The Court at the admission stage made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 20007 of 2004

O R D E R:

The writ petition is filed to issue a writ of Mandamus directing the respondents to consider granting of pension and death benefits of petitioner's father by name Balaraj to the petitioner.

The brief averments of the writ petition may be stated as follows:

The petitioner claims to be the son of A. Balaraj who worked as Attender/Peon in the respondent-Corporation. He had to be retired on 31.7.2005 but he died on 12.8.2003. The mother of the writ petitioner by name A.Shivarajamma has made representation to respondent No.1 to grant family pension, death-cum-retirement benefits including pension and also to provide job to the petitioner on compassionate grounds. Thereafter the 1st respondent in his letter dated 3.6.2004 directed the petitioner to appear before the Departmental Scrutiny Verification Committee on 11.6.2004 along with the certificates. Then one A. Satyamma w/o Late Balaiah, a cousin of the petitioner's father, who is a Government pensioner and who is enjoying the family pension from the Government, objected the M.R.O. Shaikpet Mandal not to issue legal heir certificate to the petitioner's family. After thorough enquiry, the M.R.O. issued a legal heir certificate to the petitioner. It was informed by the 1st respondent that A. Satyamma w/o A. Balaraj, a cousin of the petitioner's father, filed a suit impleading the mother of the petitioner and others challenging the validity of the certificate issued by the M.R.O. Shaikpet and her case can be considered after the disposal of the case by the court. According to the petitioner, the said suit is filed by A. Satyamma only to harass his family and to take revenge against his deceased father due to some past events. Then the petitioner

made a representation followed by a reminder to the respondents to appoint him on compassionate grounds, but in vain. Then he filed W.P.13349 of 2004, which was disposed of by this court on 2.8.2004 directing the respondents to pass speaking order and to communicate the same. Accordingly, the impugned order has been passed. Hence the present writ petition.

The respondents filed counter admitting that Shivarajamma has represented to the respondents to grant family pension, death-cum-retirement benefits including pension and also to provide job to the petitioner on compassionate appointment scheme. It is further stated in the counter that since the suit in O.S. 1912 of 2004 is pending on the file of II Jr.Civil Judge, City Civil Court, Hyderabad, the family pension and other benefits have not been sanctioned. No action has been taken in regard to sanction of family pension and death-cum-retirement benefits and therefore the benefits could not be considered. Hence the respondents pray to dismiss the writ petition.

Learned counsel for the petitioner vehemently contended that the petitioner and others are the legal heirs of the deceased A. Balaraj and the petitioner and his family members are entitled for retirement-cum-death benefits and also the pension in pursuance of the legal heir certificate issued by the M.R.O. The M.R.O. after conducting due enquiry issued the legal heir certificate and therefore simply because some frivolous suit is filed, that is not a bar for granting the death-cum-retirement benefits including the pension. Hence, he prays to allow the writ petition.

On the other hand, the respondents' counsel contended that A. Satyamma w/o A. Balaiah filed a suit to declare the legal heir certificate dated 8.12.2003 passed by the M.R.O. as null and void and therefore, as the suit is pending the request of the petitioner for grant of terminal benefits and family pension could not be considered. Hence, the order under challenge does not suffer from any legal infirmities so as to call for interference by this court.

The entire claim of the petitioner is based upon the enquiry conducted by the M.R.O. Shaikpet mandal and the consequential family member certificate issued by the M.R.O. on 9.12.2003. On the issue whether the petitioner and other family members are the legal heirs or not, the M.R.O. gave a categorical finding that it is an undisputed fact that A.Shivarajamma and her children namely Indira, Rajamani, Geetanjali, Chandrakala and Vignesh (the writ petitioner) are the family members of the deceased A. Balaraj and that Shivarajamma is the legally wedded wife and the 5 children are their offspring. With regard to the issue as to whether the deceased A. Balaraj is the son of A.Rajamallaiah or Peddamallaiah, the M.R.O. observed that it requires an elaborate trial to decide that fact and as such it is open to the objector-respondent to agitate the issue before the appropriate forum. Accordingly he issued the family member certificate.

A. Satyamma filed O.S. 912 of 2004 on the file of VI Jr. Civil Judge, Hyderabad adding all the legal heirs of the deceased A. Balaraj and the respondents herein as parties to the suit. The prayer in the suit is to declare that the impugned order dated 8.12.2003 passed by defendant No.11 as null and void as the same is bad in law and to grant perpetual injunction restraining defendant No.11 from issuing legal heir certificate/family member certificate unless the antecedents of the deceased husband of defendant No.1 with regard to his employment with defendant No.8 is in contravention of service rules and is adversely effecting the exchequer of defendant No.7, and to grant mandatory injunction restraining the defendant No.8 from considering the legal heir certificate/family member certificate if any obtained by defendant No.1 with regard to her deceased husband's employment in any manner.

Therefore, the entire claim of the petitioner is based upon the order of the M.R.O. Shaikpet mandal, which is under challenge as null and void. If the suit is decreed, then the entire edifice of the petitioner's case falls to the ground. The allegation in the plaint would go to show that the deceased joined the service by playing fraud on

the State and attempted to lay hands over the joint family property of the plaintiff joining hands with vested interests not only misused the plaintiff's father-in-laws' name but also tried to place his name in the place of her husband's name which resulted in protest by the plaintiff, and therefore, the legal heir certificate has to be declared as null and void to prevent further wrongful loss to the State.

Since the suit is pending adjudication, the dispute as to whether the legal heir certificate issued by the M.R.O. is null and void has to be decided and determined by the competent court of civil jurisdiction. Perhaps that is the reason why the impugned proceedings dated 28.8.2004 have been issued stating that pending disposal of the suit the request of the petitioner for granting terminal benefits and payment of family pension could not be considered. The respondents cannot be said to have been issued the impugned proceedings contrary to the Rules and Regulations of the service conditions governing the service of the deceased A. Balaraj.

Therefore, the order under challenge does not suffer from any serious legal infirmities so as to call for interference by this court. As the respondents have already considered the case of the petitioner and rejected the same in view of the pendency of the suit, the question of again considering the case of the petitioner does not arise inasmuch as the impugned proceedings are not shown to be perverse or contrary to law.

The writ petition is devoid of merit and it is accordingly dismissed at the stage of admission. No costs.

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K.C. Bhanu, J.

Date: --12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Superintending Engineer, Operation Circle, Andhra Pradesh Central Power Distribution Co.Ltd, Mint Compound, Hyderabad.
2 The Divisional Engineer Operation-I, Zone-I Andhra Pradesh Central Power Distribution Co., Ltd., Saifabad, Hyderabad.

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